

1 TODD KIM  
Assistant Attorney General  
2 ALEXANDER M. PURPURO (Florida Bar No. 1025872)  
United States Department of Justice  
3 Environment & Natural Resources Division  
4 Environmental Defense Section  
4 Constitution Square  
5 150 M St., N.E.  
6 Suite 4.138  
Washington D.C. 20002  
7 Telephone (202) 514-9771  
Facsimile (202) 514-8865  
8 Email: alexander.purpuro@usdoj.gov

9 *Attorneys for Defendant*

10 [additional counsel listed in signature block]

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12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

14 CENTER FOR BIOLOGICAL DIVERSITY  
15 *et al.*,

16 Plaintiffs,

17 v.

18 MICHAEL S. REGAN, in his official capacity  
19 as the Administrator of the United States  
20 Environmental Protection Agency,

21 Defendant.

Case No. 3:22-cv-3309-RS

**JOINT NOTICE TO COURT OF  
STIPULATION TO MODIFY CONSENT  
DECREE (DKT. NO. 37)**

22 Defendant Michael S. Regan, in his official capacity as the Administrator of the United  
23 States Environmental Protection Agency (hereinafter “EPA”), and Plaintiffs Center for  
24 Biological Diversity and Center for Environmental Health (collectively, “Plaintiffs”) file this  
25 stipulation notifying the Court that the parties have agreed to extend the deadline for final action  
26 under the Consent Decree. The aforementioned deadline is set forth in Paragraph 1.b of the  
27 Consent Decree entered by the Court on June 15, 2023 (Dkt. No. 37). Paragraph 5 of the Consent  
28 Decree provides, *inter alia*, that “[t]he deadlines established by this Consent Decree may be

extended (a) by written stipulation of Plaintiffs and EPA with notice to the Court[.]” Consent Decree, ¶ 5.

WHEREAS, the Consent Decree provides that the appropriate EPA official shall “sign a notice of final rulemaking to approve a revised SIP submission, to promulgate a FIP [“Federal Implementation Plan”], or to approve in part a revised SIP [“State Implementation Plan”] submission and promulgate a partial FIP for the Los Angeles—San Bernardino Counties (West Mojave Desert), California nonattainment area (codified at 40 C.F.R. § 81.305) (Mojave Desert Air Quality Management District) for the SIP element listed below no later than November 29, 2024:”

Item	State Implementation Plan Submittal and/or Applicable Elements or Control Techniques Guideline
i.	Nonattainment new source review pursuant to 42 U.S.C. §§ 7511a(a)(2)(C) and 7511a(d) (“Severe NNSR”)

Consent Decree ¶ 1.b.

WHEREAS, on June 30, 2023, EPA issued a final rule entitled “Approval, Limited Approval and Limited Disapproval of California Air Plan Revisions; Mojave Desert Air Quality Management District; Stationary Source Permits,” 88 Fed. Reg. 42258 (June 30, 2023), which resolved part of EPA’s obligations under Consent Decree ¶ 1.b;

WHEREAS, on July 9, 2024, EPA issued a proposed action on a FIP for a nonattainment new source review program for the Mojave Desert Air Quality Management District, available at 89 Fed. Reg. 56237 (July 9, 2024), to resolve its remaining obligations under Consent Decree ¶ 1.b;

WHEREAS, on September 5, 2024, the United States Court of Appeals for the Ninth Circuit issued a ruling in *Mojave Desert Air Quality Management District v. EPA*, No. 23-1411, 2024 WL 4054380 (9th Cir. Sept. 5, 2024) remanding EPA’s limited disapproval set forth in 88 Fed. Reg. 42258 (June 30, 2023);

WHEREAS, in light of that ruling, EPA requires a brief extension of its deadline under Consent Decree ¶ 1.b to take final action consistent with its obligations under that paragraph;

1 WHEREAS, therefore, the parties have agreed to an extension of the final rule deadline  
2 in Paragraph 1.b of the Consent Decree until January 10, 2025;

3 NOW THEREFORE, Plaintiffs and EPA hereby stipulate as follows:

4 1. EPA's deadline to perform the action described in Paragraph 1.b of the Consent  
5 Decree (Dkt. No. 37, ¶ 1.b) is extended until January 10, 2025.

6 Respectfully submitted,

7 Date: November 8, 2024

8 /s Jonathan Evans (email auth. 11/7/2024)

9 RYAN MAHER, Admitted *Pro Hac Vice*  
10 CENTER FOR BIOLOGICAL DIVERSITY  
11 Environmental Health Program  
12 1411 K Street NW, Suite 1300  
13 Washington, DC 20005  
14 Tel: 781-325-6303  
15 Email: rmaher@biologicaldiversity.org

16 Jonathan Evans (Cal. Bar #247376)  
17 CENTER FOR BIOLOGICAL DIVERSITY  
18 1212 Broadway, Suite 800  
19 Oakland, CA 94612  
20 Tel: 510-844-7100 x318  
21 Fax: 510-844-7150  
22 Email: jevans@biologicaldiversity.org

23 *Counsel for Plaintiffs*  
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25  
26  
27  
28

1 TODD KIM  
2 Assistant Attorney General

3 /s Alexander M. Purpuro  
4 ALEXANDER M. PURPURO (Florida Bar No. 1025872)  
5 United States Department of Justice  
6 Environment & Natural Resources Division  
7 Environmental Defense Section  
8 4 Constitution Square  
9 150 M St., N.E.  
10 Suite 4.138  
11 Washington D.C. 20002  
12 Telephone (202) 514-9771  
13 Email: alexander.purpuro@usdoj.gov

14 *Attorneys for Defendant*

15 Of counsel:

16 Elizabeth Pettit  
17 Office of General Counsel  
18 U.S. Environmental Protection Agency

19 Gregory Dain  
20 Office of Regional Counsel, Region 1  
21 U.S. Environmental Protection Agency

22 Jacobine Dru  
23 Office of Regional Counsel  
24 U.S. Environmental Protection Agency, Region III

25 Michael Boydston and Barbara Nann  
26 Office of Regional Counsel  
27 U.S. Environmental Protection Agency, Region VIII

28 Jesse Lueders  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region IX